

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

* * * * *

UNITED STATES OF AMERICA, *
EX REL, ANJELICA BROWN, *
Plaintiff * Case No.
vs. * 5:19-CV-512-BO
MINDPATH CARE CENTERS, NORTH *
CAROLINA, PLLC, JEFF WILLIAMS, *
WILLIAMS, *
Defendants *

* * * * *

DEPOSITION OF
BRUCE E. TRUITT
March 24, 2025

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1 ATTORNEY FOWLER:

2 You may answer.

3 THE WITNESS:

4 I was not asked to provide this
5 information until after submission of my report.

6 BY ATTORNEY FOWLER:

7 Q. Let's go through those publications. First is a
8 textbook and I'll refer to this number one, but
9 textbook for Practical Statistical --- sorry.
10 Practical Statistical For Auditors.

11 A. It should say sampling, I'm sorry, there is an
12 error.

13 Q. So what should it read?

14 A. Practical statistical sampling for auditors.

15 Q. Thank you, sir. And that was your textbook, sir?

16 A. Yes.

17 Q. When was that written or published?

18 A. Let's see. I would say 2018, 2019.

19 Q. And who published it?

20 A. It was published by the Government Auditing
21 Institute.

22 Q. So that's the private training entity ---?

23 A. At the time it was a government entity.

24 Q. Okay.

25 Is that available in book stores? How would we go

1 A. That it had not been done correctly.

2 Q. And the entity that was doing the review that had
3 not done it correctly was the Allied Management Group?

4 A. No, I was --- oh, oh, oh.

5 Q. Who were you saying did not do it correctly?

6 A. Allied, yes.

7 Q. Okay, Allied Management Group. So you were
8 disputing their sampling and extrapolation methods.

9 Is that a fair statement?

10 A. Correct.

11 Q. Okay.

12 The next testimony was in Personal Care Products
13 versus Texas Health and Human Services Commission in
14 2014. Which side did you testify for in that case?

15 A. I was testifying for the Defendant.

16 Q. Texas Health?

17 A. Yes.

18 Q. And what was your opinion in that case?

19 A. That the sampling estimation and extrapolation had
20 been correctly executed and that the asserted
21 recruitment amount demanded by the State of Texas was
22 materially correct.

23 Q. Did you provide an expert report in that case?

24 A. I believe I did.

25 Q. What was the outcome of that case?

1 A. I believe the recoupment was made.

2 Q. So Texas prevails?

3 A. Yes.

4 Q. Okay.

5 Were you an employee at that time ---

6 A. Yes.

7 Q. --- of Texas?

8 Okay.

9 So that was when you were --- I can't remember if
10 you were the auditor at that point or whether you were
11 ---.

12 A. I was Director of Risk Management Quality Control
13 ---

14 Q. Okay.

15 A. --- as specified in my data.

16 Q. So you were testifying for your employer ---

17 A. Yes.

18 Q. --- at that point in time?

19 Okay.

20 The next deposition, which is October 2013 was in
21 a case Cross and Litigation Settlement Trust versus
22 Susan Combs, the State of Texas, Controller of Public
23 Accounts. Which side did you testify in that case?

24 A. Defendant.

25 Q. Which would be Texas? Did you represent Texas

1 why I believe --- I think I mentioned this in here.
2 Just a minute. Due to client counsel or program
3 integrity acceptance of my summary memos and expert
4 reports, I have written hundreds of summary memos if
5 not thousands of summary memos about sampling
6 estimation, extrapolation, et cetera. Some of those
7 have been elevated to use as evidence in other legal
8 cases. The identification of which I have no idea
9 because I was an employee at the time. But as far as
10 expert reports in the way that I think you are thinking
11 of them, my answer would be no, this is it.

12 Q. Have you been called to testify at a deposition or
13 a hearing or trial as an expert other than these cases
14 that we have talked about here?

15 A. To the best of my memory, no.

16 Q. Do you sill have the report that was provided on
17 behalf of the State of Texas in the 2014 case Texas
18 Health and Human Services case that we talked about
19 earlier, 2014, number two?

20 A. That's a really good question, Counsel. I don't
21 know.

22 Q. Do you know if the State of Texas would still have
23 a copy of that expert report?

24 A. It's entirely possible --- oh, I'm sorry.

25 ATTORNEY GODLEWSKI:

1 Objection as to form.

2 A. I'm sorry.

3 BY ATTORNEY FOWLER:

4 Q. You may answer, sir.

5 A. It's possible, but I cannot say. I'm sorry.

6 Q. Okay.

7 And you've done --- and I think you said hundreds
8 of reports that may have been used in litigation but
9 you weren't called upon to testify or to --- to answer
10 questions specifically about those reports, they were
11 just something that you did for your employer.

12 Is that ---?

13 A. Exactly.

14 Q. Was one of those cases Brier Creek Pain and Spine?

15 A. That's entirely possible. It seems like ---
16 pardon me for asking a question in response to a
17 question. I seem to recall that was one of Pinnacle's
18 clients.

19 Q. Okay.

20 A. I don't know.

21 Q. Do you recall doing any work in that case?

22 A. Pardon me?

23 Q. Do you recall doing any work in that case
24 specifically?

25 A. No, I do not, I'm sorry.

1 Q. Okay.

2 I'll direct your attention to 355, the very bottom
3 of page 4.

4 A. Uh-huh.

5 Q. It states, Defendants have paid Pinnacle for Mr.
6 Truitt's services at the hourly rate of \$625 for his
7 prior work on this matter.

8 Do you understand that Pinnacle is being paid \$625
9 an hour for your work?

10 A. Based on what I see here and assuming that is
11 correct.

12 Q. Do you know independently what they are paid?

13 A. No.

14 Q. It continues on, Defendants will pay Pinnacle an
15 hourly rate of \$675 for this report preparation as well
16 as future depositions and trial work.

17 Do you know if that's what Pinnacle is paid ---?

18 ATTORNEY GODLEWSKI:

19 Objection as to form.

20 BY ATTORNEY FOWLER:

21 Q. Do you know if that's what Pinnacle is paid?

22 A. No, I do not.

23 Q. Okay.

24 But your rate you're paid personally is \$375 an
25 hour anything related to expert preparation, expert

1 downstream in some cases.

2 Q. Are you familiar with the rule for expert reports?
3 It's called 702, Rule 702 for expert testimony in
4 federal courts?

5 A. It's not anything that I've specifically read.

6 Q. Okay.

7 If you were asked what your skill --- what your
8 knowledge, skill, experience, training or education is
9 that demonstrates your specialized knowledge that will
10 help the trier of fact determine a fact at issue in
11 this case, what would you say is your knowledge, skill
12 experience, training or education that would be helpful
13 to the trier of fact in this case?

14 A. Okay. Let's see. 30 years of experience in data
15 validity, reliability, data integrity, data
16 description, sampling, estimation, extrapolation, and
17 auditing in healthcare. Literally thousands of
18 extrapolations, training materials, procedural
19 documents, consultations with audit teams, working with
20 lawyers, federal agencies, accountants, in making sure
21 that sampling estimation and extrapolation processes
22 were correctly performed.

23 Q. Okay.

24 What specifically is your area of expertise in
25 this case that will help the trier of fact understand

1 the evidence to determine the issue ---?

2 A. What specific what? Excuse me.

3 Q. What specific area of expertise do you have in
4 this case that will help a trier of fact understand the
5 evidence or determine a fact in this case?

6 A. I think what I just referenced. It seems ---.

7 Q. I mean, it's a broad question.

8 A. Yeah, it truly is. I mean, I have been doing this
9 stuff for a very, very long time in a very small box
10 called healthcare.

11 Q. Would you ---?

12 A. And my education and my professional background,
13 you know, I have taught applied statistics at the
14 graduate level. My concentration in graduate school at
15 the LBJ School of Public Affairs at the University of
16 Texas was in quantitative methods, operations research
17 and applied statistics. I have taught applied
18 statistics and quantitative methods in multiple
19 different formats.

20 Q. Is it fair to say that your area of expertise in
21 this case is applied statistics?

22 A. And auditing standards, yes.

23 Q. So applied statistics and auditing standards?

24 A. Right.

25 Q. Any other areas of expertise?

1 Q. Okay.

2 If you would point out to me and report where you
3 relied upon her numbers.

4 A. Anything that says --- okay, you would need to be
5 looking at --- any of the PERCS assertions that are
6 made on page 11 or page 12.

7 Q. So is that all under the heading the extrapolated
8 amounts are incorrect regardless of method at the
9 bottom of page 11 top of page 12?

10 A. Yes.

11 Q. Did you rely upon information from Ms. Nayoski in
12 any other part of your expert report?

13 A. No.

14 Q. Okay.

15 Do you still have the emails from Ms. Nayoski?

16 A. Probably.

17 Q. With agreement of Counsel, can you provide those
18 to the United States?

19 ATTORNEY GODLEWSKI:

20 I'm going to object that that's under the
21 attorney-client work product.

22 BY ATTORNEY FOWLER:

23 Q. Were those emails from Ms. Nayoski to you?

24 A. With I believe the appropriate disclaimer at the
25 bottom of the page --- I'd have to go back and look.

1 Q. Was it related in any way to your work as a
2 statistician?

3 A. Not that I'm aware of, no.

4 Q. Do you know if there were complaints bout your
5 credentials and whether you should be the Chief
6 Statistician for SMRC?

7 ATTORNEY GODLEWSKI:

8 Objection as to form.

9 THE WITNESS:

10 No, there were not. In fact in the
11 precontract evaluation CMS noted that I exceeded their
12 requirements for a statistician.

13 BY ATTORNEY FOWLER:

14 Q. Can you identify the document where you say that
15 happened?

16 A. I can produce it if necessary.

17 Q. Please do.

18 Do you know the timeframe?

19 A. I'm sorry, timeframe?

20 Q. Timeframe for that document from CMS?

21 A. Oh, it would have been before the contract was
22 consummated. So it would have been at or just before
23 2013.

24 Q. Okay.

25 The second thing that you have on the first page

1 in Medicaid.

2 Q. You state on page 2, I was Chief Statistician on
3 the nationwide CMS supplemental medical review contract
4 and you have open paren, q.v. at HPS and it goes
5 through the site there. When were you the Chief
6 Statistician for the SMS --- SMRC or whatever you want
7 to call it?

8 A. Again, that would have been --- what was it?
9 2010, 2011 or 2013 or '14. Somewhere along in there.
10 That's the SMRC we talked about earlier.

11 Q. Yep. You also say, I was a former member of the
12 National Medicare Statistical User Group and certified
13 by CMS as a seen required criteria for sampling
14 extrapolation work.

15 When was that certification?

16 A. That --- as I said earlier, that would have been
17 prior to the consummation of the contract. If memory
18 serves, that evaluation was part of the submission of
19 the contract. Or the proposal, excuse me, the
20 proposal.

21 Q. And you believe you have that in writing?

22 A. Yes.

23 Q. And you can provide that?

24 A. Yes, I can.

25 Q. You also state, my methods, curriculum techniques,

1 and techniques have been recognized by such entities as
2 the Harvard Business School --- Harvard School of
3 Business, the National State Auditor's Association and
4 National Association of State Auditors, Controllers,
5 and Treasures, have facilitated recovery and
6 reconciliation of business of healthcare dollars.

7 Do you have documentation for your recognition by
8 the Harvard School of Business?

9 A. Yes.

10 Q. What timeframe was that?

11 A. Let's see. 2004, 2005 I think.

12 Q. Can you provide that documentation?

13 A. Yes.

14 Q. Can you also provide the documentation from the
15 National State Auditor's Association and the National
16 Association of State Auditors, Controllers and
17 Treasurers?

18 A. I believe I can.

19 Q. Okay.

20 ATTORNEY GODLEWSKI:

21 Bruce, are you doing okay? Are you doing
22 okay?

23 THE WITNESS:

24 I'm ready pretty soon for a break.

25 ATTORNEY FOWLER:

1 reviewed the deposition transcript of Mr. D'Zio and
2 that doesn't change your opinions or your expert
3 report?

4 A. No.

5 Q. Do you understand that you are required to provide
6 a complete expert report of all your opinions, the
7 basis and reasons for them for you to be an expert in
8 federal court?

9 A. Yes.

10 Q. Did you provide a complete statement of all
11 opinions that you will express and the basis and
12 reasons for them in this case?

13 A. At this point in time to the best of my knowledge,
14 yes.

15 Q. Does your report --- and I'm quoting here, provide
16 a, quote, complete statement of all opinions the
17 witness will express and the basis and reasons for
18 them?

19 A. Same answer.

20 Q. Okay.

21 I want to identify initially what those opinions
22 are and based on their headings and conclusion, I may
23 be able to shorten this just a little bit and then I'll
24 go back and unpack each of them. But before we take a
25 break, let me just set out what those opinions are.

1 You have got headings, starting at page 3 all the way
2 through 13 and then at conclusion you've got bullet
3 points that correspond to those headings with one
4 addition. So let me just state those and see if there
5 are any other opinion you have other than what you
6 have. And I will be reading from page 13 of your
7 expert report, which is Government Exhibit 371. And
8 I'm going to number these just so I can keep track in
9 my head. Number one I have neither statistical
10 sampling nor extrapolation should have been used.
11 That's one of your opinions in this case.

12 Correct?

13 A. Correct.

14 Q. Number two, the universe and therefore the
15 sampling frame in sampling are incomplete and bias. Is
16 that your opinion number two?

17 A. Correct.

18 Q. Number three, sampling size determination is
19 unclear and possibly inappropriate. Is that one of
20 your opinions in this case?

21 A. Correct.

22 Q. Okay.

23 I have number four as SGS relies on sampling
24 standards that do not exist.

25 A. Correct.

1 Q. Is that one of your opinions in this case?

2 A. Yes, it is.

3 Q. Number five is the point estimate cannot be used
4 as the basis for the recoupment amount. Is that one of
5 your opinions in this case?

6 A. Correct.

7 Q. The next bullet point on page 13 does not have a
8 heading, but I will read it regardless. It states for
9 precision is ignored --- no sorry. If precision is
10 ignored, the sample is, comma, by definition
11 nonstatistical and cannot be projected. Is that one of
12 your opinions in this case?

13 A. Yes it is.

14 Q. Okay.

15 The next one --- and I didn't number that one
16 because you didn't have a heading for it.

17 A. Sorry.

18 Q. But number six I have as the precision of the
19 extrapolation is incorrectly calculated. Is that one
20 of your opinions, sir?

21 A. Yes.

22 Q. And number seven I have as the extrapolation
23 method used is not the method asserted. Is that one of
24 your opinions, sir?

25 A. Yes.

1 Q. And number eight I have the extrapolation method
2 used is wholly inappropriate. Is that one of your
3 opinions?

4 A. Yes.

5 Q. Number nine I have other extrapolation methods
6 must be considered. Is that one of your opinions?

7 A. Yes.

8 Q. Ten I have the extrapolated amounts are incorrect
9 regardless of method. Is that one of your opinions?

10 A. Yes.

11 Q. 11 I have SGS asserts but did not achieve MPIM
12 compliance. Is that one of your opinions?

13 A. Yes.

14 Q. And 12 I have as evidence of assessment of data
15 and reliability is absent. Is that one of your
16 opinions?

17 A. Yes it is.

18 Q. Okay.

19 Now each of those 12 that I read I gave numbers to
20 has a heading in your report.

21 Is that correct?

22 A. Yes.

23 Q. Okay.

24 And we will circle back to the one that didn't
25 have a heading just to make sure I'm not missing

1 anything, but other than those 12 and possibly the one
2 that doesn't have headings, are there any other
3 opinions in this report other than what you have in
4 your conclusion and what is expressly set out with
5 headings in your report?

6 A. No.

7 Q. Okay.

8 And we're going to unpack each of those, but I
9 just want to make sure I know what your opinions are.
10 So it's either 12 or 13 depending on whether you count
11 the one that doesn't have headings. But before we get
12 into each of those you have a summary that you state at
13 page 3 and your summary of examination findings states
14 the process and procedures designed and executed by SGS
15 are correct in some respects but fail to render
16 sufficient appropriate evidence of a proper random
17 sample or a reasonable extrapolating recoupment
18 assertion. The intended deficiencies are categorically
19 addressed below. And then you go into the opinion by
20 opinion. So that's the over all summary of all your
21 opinions.

22 Correct?

23 A. Correct.

24 Q. And you believe that some of the things they did
25 were correct and you're disagreeing with certain things

1 second?

2 ATTORNEY FOWLER:

3 Sure.

4 ---

5 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

6 ---

7 BY ATTORNEY FOWLER:

8 Q. Just a technical thing. Your footnote four has a
9 site Appendix A, Table A-2. Did you provide Appendix
10 A, Table A-2 on the bottom of page 6?

11 A. Dah, dah, dah, dah.

12 I know what it refers to --- oh, my God. My
13 English teacher would kill me.

14 Q. So is that a document that you created, sir?

15 A. Yeah, this is the principles and methods, Table A,
16 Appendix 2. I may have put something in there and then
17 took --- oh, here it is. I have an incomplete
18 reference, I'm sorry, even when using changes in
19 estimated error rate. So this should refer to the
20 methods and principles. I'm sorry about that.

21 Q. Can you provide that to us?

22 A. Do you really want the whole thing?

23 Q. The part that you relied upon?

24 A. Oh, the table?

25 Okay. Sure. Yeah.

1 Q. The table I asked you ---?

2 A. Yeah.

3 Q. Because if you relied upon it, I would like to see
4 it.

5 A. Sure, sure.

6 Q. Okay.

7 A. I hope someone is keeping track ---

8 Q. I am.

9 A. --- of these. Okay.

10 Q. You refer to changes to the PIM in 2019. Were any
11 of these changes related to sample sizes?

12 A. Not that I'm aware of. But the PIM doesn't really
13 talk about sample size that much, except what we've
14 covered.

15 Q. Okay.

16 Does the PIM provide that sample size is
17 determined after a thorough assessment involving
18 computer simulations?

19 A. I don't think so.

20 Q. Do you know if the Cochran textbook address sample
21 size and what is the appropriate sample size?

22 A. Yes, it addresses sample size. But no, it does
23 not try to suggest what an appropriate sample size is.

24 Q. Okay.

25 A. It recognizes that you got some flexibility there.

1 Q. Okay.

2 A. I, I've seen --- like I said, it's a multiple
3 choice ---

4 Q. Okay.

5 A. --- prospect.

6 Q. And I'm sorry to ask this. But in a False Claims
7 Act situation, do you know ---

8 ATTORNEY GODLEWSKI:

9 Objection as to form.

10 BY ATTORNEY FOWLER:

11 Q. --- if any of these methods of estimating damages
12 has been used?

13 A. I can't say, I'm sorry.

14 Q. Okay.

15 A. I, I live in a very small world, okay, my box is
16 tiny.

17 Q. And I appreciate your explanation in these
18 numbers. You provided some supporting documents.

19 Is there anything in those supporting documents
20 that relates to these calculations on pages 11 and 12
21 for your opinion number 10?

22 A. In the stuff that's been ---?

23 Q. Right. In the documents --- the supplemental
24 documents that you've provided?

25 A. Not completely.

1 Q. Can you provide supplemental documents ---

2 A. Sure, ---

3 Q. --- in support of those calculations?

4 A. --- sure.

5 Q. Do you have those calculations?

6 A. Yeah.

7 Q. I'm assuming you --- you would have ---

8 A. Yeah, ---

9 Q. --- held those?

10 A. --- sure.

11 Q. Okay.

12 A. You're going to send me a laundry list.

13 Right?

14 You're going to send me a laundry list?

15 ATTORNEY GODLEWSKI:

16 Yeah.

17 THE WITNESS:

18 Oh, joy. I love going to the grocery
19 store.

20 COURT REPORTER:

21 Can you hold on one second?

22 ---

23 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

24 ---

25 BY ATTORNEY FOWLER:

1 Q. Let's go to opinion 11. SGS asserts but did not
2 achieve MPIM compliance.

3 Tell me why SGS did not achieve MM compliance in
4 your view?

5 A. Okay.

6 Q. The short version.

7 A. For the reasons listed here. The primary issue
8 is, an absence of criteria rationale or documentation
9 about policy, procedure and process to move from the
10 National Claims Database to the sample. And then as I
11 referenced, consideration of two-tail and alternate
12 methods of extrapolation. I had issues with the
13 definition of the universe. I have to accept the
14 universe at face value.

15 Generally, there would be a set of procedures that
16 one would be able to apply to the database to produce
17 the universe, that's not here. The same thing is true
18 to get from the universe to the Sampling Frame and
19 ultimately to the sample.

20 Q. Can you provide specific citations where PIM is
21 violated? And there are some references in the report
22 that are specific. So would they all be included in
23 your expert report?

24 A. Yes. The primary thing here --- just a minute.

25 Yeah, I mean, if you really want to, we can

1 National Claims Database. There are massive holes in
2 the documentation, and the criteria, and the rationale
3 and the process.

4 Q. And it's your opinion, because of those holes that
5 you believe are there, that ---

6 ATTORNEY GODLEWSKI:

7 Objection to characterizing his opinion.

8 BY ATTORNEY FOWLER:

9 Q. --- that extrapolation is invalid because of those
10 holes?

11 A. It could be.

12 Q. Okay.

13 A. It could be. I'm not making a positive statement.
14 I can't do that.

15 Q. Okay.

16 Let's go to your opinion 12, evidence of
17 assessment of data reliability is absent. So tell me
18 why the evidence of assessment of data reliability is
19 absent in your opinion.

20 A. So --- let me try and give you an executive
21 summary of this.

22 Q. Thank you.

23 A. So there is a publication by the GAO called The
24 Gray Book, which says, quote, you should assess
25 reliability if the data to be analyzed are intended to

1 A. Thank you. Number four, there is reference made
2 to the applicability and compliance --- applicability
3 of and compliance with sampling standards despite the
4 fact that the only set --- only thing that rises to the
5 level of standards is the AICPA sampling publication as
6 put out by the Accounting Standards Board. Number
7 five, the point estimate can't be used because it was
8 in sufficient precision achieved in order to use the
9 point estimate and we have zero confidence in the point
10 estimate. Number six ---.

11 Q. Actually, I'm going to call that 5a, if precision
12 is ignored because you didn't have a heading for that.

13 A. Oh, okay.

14 Q. I'll just keep the same numbering.

15 A. Okay.

16 Q. So 5a, if a precision is ignored, tell me that
17 because that was not one of your headings earlier.

18 A. Right, right. That comes straight from the AICPA.
19 It's either 350 or 530. It should be referenced in
20 here. If you ignore the precision, the sample is by
21 definition nonstatistical and cannot be projected. Let
22 me double check that real quick because I'm pretty sure
23 I sourced that. Just a minute. Okay, that needs to be
24 sourced because AICPA absolutely says that. So I'm
25 sorry, Counselor please put that on the list.

1 Q. Okay.

2 So you'll provide a source for 5a?

3 A. Yes, absolutely. I'm sorry.

4 Q. Okay.

5 Number six, the precision of extrapolation is
6 incorrectly calculated.

7 A. That really has to do with T-value versus Z-value
8 and then one-tail versus two-tail.

9 Q. And does that relate to bias, prejudice,
10 insufficient, or any of those other ---?

11 A. Yes.

12 Q. Let's go to seven, extrapolation method used is
13 not the method asserted.

14 A. That has to do with the difference between some of
15 the disclosures talking about an error rate and then
16 the fact that a mean --- an average dollar value in
17 error was used in the extrapolation. There are
18 multiple numbers in play to tell us what's happening.

19 Q. Number eight, the extrapolation method used is
20 wholly inappropriate. Which of those adjectives ---?

21 A. That's one-tail versus two-tail and that's
22 presidential --- prejudicial, inappropriate and
23 unreasonable.

24 Q. Okay.

25 The next I think is nine, extrapolation method